

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MARVIN SIMON, as Authorized Representative
for the Marvin Simon Trust, as amended, for Palm
Investors, LLC and for the Jeffrey Markman 1993
Irrevocable Trust, MARILYN SIMON, CLAUDE
HARRIS, ANN HARRIS, BEN SIMON, HEIDI
SIMON, BRITT SIMON, KIM FINK, ANDREW
FINK, AMY GOLDBERG, STEFAN RESSING,
Individually and as Trustee of The S. Ressing
1999 Trust, FITZROY VENTURES, LLC,
MICHAEL LE, Individually and as Trustee of the
ML Le 1999 Trust, and MACKENZIE
VENTURES LLC,

Plaintiffs,

vs.

KPMG LLP and SIDLEY AUSTIN BROWN &
WOOD LLP, f/k/a/ BROWN & WOOD, LLP,

Defendants.

Civil Action Number 05-3189 (DMC)
District Judge Dennis M. Cavanaugh

CLASS ACTION

NOTICE OF MOTION TO INTERVENE
AND STAY THE ACTION PENDING
RESOLUTION OF A PREVIOUSLY
FILED EMERGENCY MOTION IN A
RELATED ACTION

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Co-Lead Counsel for Movants

PLEASE TAKE NOTICE that on such date and time to be set by the Court, proposed intervenors Thomas R. Becnel, the Becnel Family Trust, CST Trust, BCTS LLC and Jardine Ventures LLC (the “Arkansas Plaintiffs”) will respectfully move this Court before the Honorable Dennis M. Cavanaugh, United States District Judge, at the United States District Court for the District of New Jersey, located at 50 Walnut Street, Newark, New Jersey 07101, for an Order (1) pursuant to Rule 24 of the Federal Rules of Civil Procedure for leave to intervene in this action as plaintiffs and (2) to stay this action pending the resolution of the Arkansas Plaintiffs’ pending emergency motion in the related action entitled *Becnel, et al. v. KPMG LLP, et al.*, No. 05-6015 (W.D. Ark. filed on Jan. 28, 2005).

This motion is based upon this Notice of Motion, the accompanying Memorandum of Law in support thereof, the Declaration of J. Erik Sandstedt filed herewith, the pleadings and other files herein, and such other written or oral argument as may be permitted by the Court.

WHEREFORE, the Arkansas Plaintiffs respectfully request that the Court: (1) grant them leave to intervene in this Action as plaintiffs; (2) stay this Action pending the resolution of the Arkansas Plaintiffs' emergency motion in the *Becnel* action by the United States District Court for the Western District of Arkansas; and (3) grant such other and further relief as the Court may deem just and proper.

Dated: June 28, 2005

Respectfully submitted,

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

/s/ J. Erik Sandstedt
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